



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/719,400	11/21/2003	Charles Christopher Thorpe	3000177 / 703454-2001	2557

7590 09/28/2005

Bingham McCutchen LLP  
Suite 1800  
Three Embarcadero Center  
San Francisco, CA 94111-4067

EXAMINER
----------

VAN, QUANG T

ART UNIT	PAPER NUMBER
----------	--------------

3742

DATE MAILED: 09/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	10/719,400		THORPE ET AL.	
	<b>Examiner</b>		<b>Art Unit</b>	
	Quang T. Van		3742	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 August 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4,6-29,31-62 and 66-88 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4,6-29,31-62 and 66-88 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 January 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-2, 6, 7-13, 14-15, 18-19, 23, 27-29, 31-38, 59-60, 66, 68, 70, 73-74, 77-78, 81-82 and 85-86 are rejected under 35 U.S.C. 102(b) as being anticipated by Housley (US 5,988,045). Housley discloses, figure 1, a utensil supporting multiple cooking environments for preparing foods comprising a microwaveable housing (10) having a lower housing section (12) and an upper housing section (40); a support member (22a, 22b, 22c) in said lower housing section (12); a grill (30) having a surface (32) for supporting the food item thereon, said grill surface (32) defining a plurality apertures (36) and being placed on said support member (22a, 22b, 22c). With regard to claims 6-14, 27-29, 31-38, 59-60, 66, 68, 70, 73-74, 77-78, 81-82, 85-86, a solid or semi-solid gelatinous ingredient is considered material or article worked upon by apparatus. "Expressions relating the apparatus to contents thereof during an intended operation are no significance in determining patentability of the apparatus claim". *Ex parte Thibault*, 164 USPQ 666, 667 (Bd. App. 1969). Furthermore, "Inclusion of material or article worked upon by a structure being claimed does not impart patentability to the claims". *In re Young*, 25 USPQ 69 (CCPA 1935) (as restated in *In re Otto*, 136 USPQ 458, 459 (CCPA 1963). In this case, a solid or semi-solid gelatinous

Art Unit: 3742

ingredient or flavoring material is considered material or article worked upon which does not limit apparatus claims, therefore no patent weight is given to these claims.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 39-42, 45, 47, 49-50, 53, 56-58, 61-62, 67, 69, 71-72, 79-80, 83-84 and 87-88 are rejected under 35 U.S.C. 103(a) as being unpatentable over Housley (US 5,988,045) in view of Wang et al (US 6,463,844). Housley discloses substantially all features of the claimed invention except a gelatinous ingredient for said food item, wherein said gelatinous ingredient is not extracted from the food item. Wang discloses a gelatinous ingredient (21) for said food item, wherein said gelatinous ingredient is not extracted from the food item (col. 11, lines 32-37). It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize in Housley a gelatinous ingredient for said food item, wherein said gelatinous ingredient is not extracted from the food item as taught by Wang in order to add flavor to the cooking item when cooking.

5. Claims 3, 20-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Housley (US 5,988,045) in view of Koochaki (US 6,229,131). Housley discloses substantially all features of the claimed invention except a housing including a vent. Koochaki discloses a microwave-cooking grill (100) having a housing including a vent

(186). It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize in Housley a housing including a vent as taught by Koochaki in order to release the steam from the cooking housing.

6. Claims 43-44, and 54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Housley (US 5,988,045) in view of Wang et al (US 6,463,844) and further in view of Koochaki (US 6,229,131). Housley/Wang disclose substantially all features of the claimed invention except a housing including a vent. Koochaki discloses a microwave-cooking grill (100) having a housing including a vent (186). It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize in Housley/Wang a housing including a vent as taught by Koochaki in order to release the steam from the cooking housing.

7. Claims 4, 24-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Housley (US 5,988,045) in view of Levinson (US 4,923,704). Housley discloses substantially all features of the claimed invention except said grill surface being coated with a metalized susceptor material. Levinson discloses a grill surface being coated with a metalized susceptor material (col. 4, lines 4-20). It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize in Housley a grill surface being coated with a metalized susceptor material as taught by Levinson in order to absorb the microwave energy and also delivery the microwave energy to the cooking food.

8. Claims 46, and 55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Housley (US 5,988,045) in view of Wang et al (US 6,463,844) and further in view

of Levinson (US 4,923,704). Housley/Wang disclose substantially all features of the claimed invention except said grill surface being coated with a metalized susceptor material. Levinson discloses a grill surface being coated with a metalized susceptor material (col. 4, lines 4-20). It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize in Housley/Wang a grill surface being coated with a metalized susceptor material as taught by Levinson in order to absorb the microwave energy and also delivery the microwave energy to the cooking food.

9. Claims 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Housley (US 5,988,045) in view of Barnes (US 6,608,292). Housley discloses substantially all features of the claimed invention except a connector that couples said lower and upper microwave housing sections. Barnes discloses a connector (212) that couples said lower (104) and upper microwave housing sections (102). It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize in Housley a connector that couples said lower and upper microwave housing sections as taught by Barnes in order to connect the upper and the lower housing section together.

10. Claims 51-52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Housley (US 5,988,045) in view of Wang et al (US 6,463,844) and further in view of Barnes (US 6,608,292). Housley/Wang disclose substantially all features of the claimed invention except a connector that couples said lower and upper microwave housing sections. Barnes discloses a connector (212) that couples said lower (104) and upper

microwave housing sections (102). It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize in Housley/Wang a connector that couples said lower and upper microwave housing sections as taught by Barnes in order to connect the upper and the lower housing section together.

11. Claim 3, 20-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Housley (US 5,988,045) in view of Craft (US 6,018,157). Housley discloses substantially all features of the claimed invention except a housing including vent. Craft discloses a housing (14) including vent (18). It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize in Housley a housing including a vent as taught by Craft in order to release the steam from the cooking housing.

12. Claim 43-44, 48, and 54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Housley (US 5,988,045) in view of Craft (US 6,018,157). Housley discloses substantially all features of the claimed invention except a housing including vent. Craft discloses a housing (14) including vent (18). It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize in Housley a housing including a vent as taught by Craft in order to release the steam from the cooking housing.

13. Claims 75-76 are rejected under 35 U.S.C. 103(a) as being unpatentable over Housley (US 5,988,045) in view of Wang et al (US 6,463,844) and further in view of Thompson (US 3,669,688). Housley/Wang disclose substantially all features of the claimed invention except the gelatinous ingredient including a corn syrup ingredient and

an agar ingredient. Thompson discloses gelatinous ingredient including a corn syrup ingredient and an agar ingredient (col. 1, lines 58-72 and col. 2, lines 1-20). It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize in Housley/Wang gelatinous ingredient including a corn syrup ingredient and an agar ingredient as taught by Thompson in order to add flavor to the cooking item.

***Response to Amendment***

14. Applicant's arguments with respect to claims 1-4, 6-29, 31-62 and 66-88 have been considered but are moot in view of the new ground(s) of rejection.

Cooking oil described in Wang et al. is considered gelatinous ingredient, for example, margarine is a vegetable cooking oil in semi-solid form.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Quang T. Van whose telephone number is 571-272-4789. The examiner can normally be reached on 8:00Am 7:00Pm M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robin Evans can be reached on 571-272-4777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



Art Unit: 3742

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



QV

September 26, 2005



Quang T Van  
Primary Examiner  
Art Unit 3742